

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FILED

2005 SEP -2 AM 11:52

CLERK'S OFFICE
NORTHERN DISTRICT OF OHIO
CLEVELAND

NORMAN RICE,

Plaintiff,

vs.

CUYAHOGA COUNTY DEPARTMENT
OF JUSTICE AFFAIRS – CRIMINAL
JUSTICE SERVICES, *et al.*,

Defendants.

CASE NO.

1:05CV2114

JUDGE

JUDGE BOYKO

NOTICE OF REMOVAL

Defendants Marty Murphy and Maureen Weigand (collectively, "Defendants") remove this action from the Common Pleas Court of Cuyahoga County, Ohio, pursuant to 28 U.S.C. §§ 1331, 1367, 1441 and 1446 on the following grounds:

1. Defendants are named defendants in a civil action instituted in the Common Pleas Court of Cuyahoga County, Ohio, captioned Norman Rice v. Cuyahoga County Department of Justice Affairs-Criminal Justice Services, et al., Case No. CV 05 568601, which was filed on July 27, 2005. Copies of all process and pleadings served upon Defendants are attached hereto as Exhibit A.

2. Defendants file this notice under 28 U.S.C. § 1441(b), which provides that "[a]ny civil action of which the district courts have original jurisdiction founded on a claim or right arising under the Constitution, treaties or laws of the United States shall be removable without regard to the citizenship or residence of the parties."

3. In the Complaint, Plaintiff Norman Rice (“Plaintiff”) alleges, among other things, that Defendants denied him his civil rights under the United States and Ohio Constitutions in violation of 42 U.S.C. § 1983.

4. This Court has original jurisdiction over this action under 28 U.S.C. § 1331 because the Plaintiff’s action is a civil action “arising under the Constitution, laws or treatises of the United States.” A case arises under federal law when an issue of federal law appears on the face of a well-pleaded complaint. *Metropolitan Life Ins. Co. v. Taylor*, 481 U.S. 58, 63 (1987). Plaintiff’s claim under 42 U.S.C. § 1983 is pled plainly on the face of the Complaint in Count IV thereof.

5. This Court has supplemental jurisdiction over Plaintiff’s state-law claims for discrimination, defamation, respondeat superior, and punitive damages under 28 U.S.C. § 1337(a) because these claims arise from the same common nucleus of operative facts and are inextricably intertwined with Plaintiff’s 42 U.S.C. § 1983 claim. Moreover, these claims do not pose novel or complex issues of state law nor do they substantially predominate over Plaintiff’s 42 U.S.C. § 1983 claim. There is no reason to believe that it would be more economical or convenient for the state court to hear the state claims. 28 U.S.C. § 1337(c).

6. Defendants received notice of this action and were served with a copy of the Complaint on or after August 5, 2005. Thirty days has not yet expired since the action became removable to federal court, thus this notice is timely pursuant to 28 U.S.C. § 1446(b).

WHEREFORE, Defendants Marty Murphy and Maureen Weigand request that the above-captioned action be removed from the Court of Common Pleas, Cuyahoga County, Ohio, to the United States District Court for the Northern District of Ohio, Eastern Division, pursuant to 28 U.S.C. §§ 1331, 1367, 1441 and 1446.

Respectfully submitted,


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Counsel for Defendants Marty Murphy and
Maureen Weigand

CERTIFICATE OF SERVICE

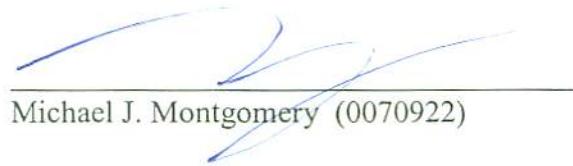
I hereby certify that the foregoing NOTICE OF REMOVAL was served via regular U.S. mail this 2nd day of September 2005 upon the following:

Merrie Frost
7784 Reynolds Road
Mentor, Ohio 44060

Counsel for Plaintiff Norman Rice

Shawn Mallamad
Assistant Prosecuting Attorney
Cuyahoga County Prosecutor's Office
The Justice Center, Courts Tower
1200 Ontario Street, 8th Floor
Cleveland, Ohio 44113

Counsel for Defendants Cuyahoga County Department of Justice Affairs; Cuyahoga County Commissioners Jimmy Dimora, Tim McCormack, and Peter Lawson Jones; and Dennis Madden, Mark Welty, Ernie Szorady, and Carla Brown


Michael J. Montgomery (0070922)